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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,014	05/10/2001	Peter Schafer	A34196 PCT USA-A	5113

7590 05/03/2005

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EXAMINER

BUTLER, DOUGLAS C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/853,014

Applicant(s)

SCHAFFER ET AL.

Examiner

Douglas C. Butler

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 3-11, 15 and 17-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 12-14 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-42 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. An action on the merits of claims 1-2, 12-14, 16 is included in this office action as being readable on the elected species (species A: Fig. 1) with claims 3-11, 15 and 17-42 withdrawn from consideration under 37 CFR 1.142(b) as not being readable on the elected species.

2. See MPEP 706.03(k) entitled "Duplicate Claims" and the treatment thereof in view of the addition of new claims 25-42 which are identical to withdrawn claims 3-11, 15, 17-24.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 12-14, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Reuter (US 5,669,673), newly cited.

In Reuter, the power booster is adjustable based upon transverse acceleration or yaw rate. See claims 3, 8, 12 of Reuter which are as follows:

"3. A direct power **booster** response system according to claim 1 further comprising an integral chassis system control valve actuatable in response to a programmed event and positioned in the second conduit wherein actuation of the integral chassis system control valve effects selective actuation of the wheel brake in response to at least one of a steering angle sensor, a **lateral accelerometer and a yaw rate** sensor independent of the master cylinder."

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"8. A direct power **booster** response system according to claim 6 further comprising an integral chassis system control valve actuatable in response to a programmed event and positioned in the second conduit wherein actuation of the integral chassis system control valve effects selective actuation of the wheel brake in response to at least one of a steering angle sensor, a **lateral accelerometer and a yaw rate** sensor independent of the master cylinder."

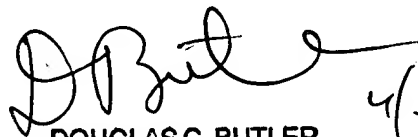
"12. A direct power **booster** response system according to claim 11 further comprising an integral chassis system control valve actuatable in response to a programmed event and positioned in the second conduit wherein actuation of the integral chassis system control valve effects selective actuation of the wheel brake in response to at least one of a steering angle sensor, a **lateral accelerometer and a yaw rate** sensor independent of the master cylinder."

The instant claims call for little more than a brake booster

which is not limited to any particular configuration wherein the brake booster is adjusted based upon "yaw rate and/or transverse accelerating" which is disclosed by Reuter et al.

5. Applicant's arguments with respect to claims 1-2, 12-14, 16 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication should be directed to Exmr Butler at telephone number 571-272-7115.

  
DOUGLAS C. BUTLER  
PRIMARY EXAMINER  
AU3683 4/30/05